

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOSH DUANE RUSSELL,

Petitioner,

Case No. 1:07-cv-1082

v.

Honorable Wendell A. Miles

CAROL HOWES,

Respondent.

_____ /

JUDGMENT

In accordance with the Opinion entered this day:

IT IS ORDERED that Petitioner's application for habeas corpus relief be DISMISSED without prejudice pursuant to Rule 4 of the Rules Governing § 2254 Cases for lack of exhaustion of available state-court remedies.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED because a reasonable jurist could not conclude either that the district court erred in dismissing the petition for failure to exhaust or that the petitioner should be allowed to proceed further. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Dated: November 13, 2007

/s/ Wendell A. Miles

Wendell A. Miles

Senior United States District Judge